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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,182	05/14/2001	David A. Fell	659-700	8195
757	7590	05/23/2006	EXAMINER	
BRINKS HOFER GILSON & LIONE			REICHLE, KARIN M	
P.O. BOX 10395			ART UNIT	
CHICAGO, IL 60610			PAPER NUMBER	

3761

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/855,182	<b>Applicant(s)</b> FELL ET AL.	
	<b>Examiner</b> Karin M. Reichle	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-15,18,20,22,24-36,49-52 and 55-60 is/are pending in the application.
- 4a) Of the above claim(s) 5,13,15,18,22,24-31,51,59 and 60 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-12,14,20,32-36,49,50,52 and 55-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4-17-06 has been entered.

### ***Election/Restrictions***

2. Claims 5, 13, 15, 18, 22, 24-31, 51 and 59-60 are still withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species and invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 9 or 20.

### ***Claim Rejections - 35 USC § 112***

3. Claim 33 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A positive structural antecedent basis for “said first and second bond regions” should be set forth.

***Claim Language Interpretation***

4. Directional terms are defined as set forth on page 7, lines 3-14. The "body side", "inner" or "upper" surface, and now the "second" surface, will be considered the surface of the element from side edge to side edge most immediately adjacent the body in Figure 19 at the side edge and the "outer", "lower" or "garment side", and now the "first" surface, will be considered the entire surface from side edge to side edge opposite such "body side" surface. The terms "outer cover", "back sheet" and "barrier" are considered to be usable interchangeably, see page 8, lines 1-3 and page 9, lines 1-3. "Extensible" is defined as set forth on page 22, lines 1-3. The terms "location", "fixedly", "fixedly detachable" and "fixedly detachably connected" are defined as set forth on pages 14, 15 and 19. As already discussed, the terminology "connected" and "bonding" alone is interpreted as including indirect or direct connections. It is also noted that the "wherein" clause of claim 1 does not require detachment due to expansion only occurring when there is expansion of the absorbent material. Also such clause does not require detachment due to detachment of the connection. It is also noted that the body panels are not required to consist of only one layer nor the garment side surface being the outermost surface of the panel.

***Claim Rejections - 35 USC § 102/103***

5. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

6. Claims 1, 3-4, 6-12, 14, 20, 32-36, 49-50, 52 and 55-58 are rejected under 35 U.S.C. 102(b) as anticipated by Kimberly Clark PCT '688 or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kimberly Clark PCT '688 in view of Houghton et al '711.

Claims 1: see Claim Language Interpretation section supra, Figures, especially Figures 1, 2, 3, 6 and 8B, the latter with respect to element 28, page 6, first paragraph, the paragraph bridging pages 6-7, page 7, last paragraph, page 8, page 11, lines 14-18, page 9, lines 28-31, page 21, line 4-page 23, line 7, especially the paragraph bridging pages 22-23, page 25, line 34-page 26, line 29, i.e. the chassis is 10, the panels are 52, 53, the surfaces are 54 and 56, the terminal crotch edges are 62, 63, the absorbent element is 32 which is directly connected to the outer surface 56 at respective first locations, 40, 44 or 40 and 44, and including a backsheet 30 having a first portion and a second portion formed by the outer surface of immediately adjacent panels of pleat 92 therein and an expandable absorbent material 48 disposed adjacent the inner surface of element 30. Claim 1 further claims the first and second portions directly connected by a connection which is detachable such that the first portion detaches from the second portion when the absorbent material expands. It is the Examiner's first position that such is taught by the portion of '688 bridging pages 22-23, i.e. immediately adjacent panels of the pleats 92 are "lightly attached" and "configured with a strength and distribution which does not excessively inhibit the desired expansions", i.e. the expansion of section 90, i.e. 92, when the absorbent material expands. Alternatively, i.e. the Examiner's second position, it is noted that the claim does not set forth the specific adhesive strength or the specific amount of expansion and at the very least '688 teaches a direct connection of immediately adjacent panels which are "lightly" attached so as to not "excessively" inhibit the desired expansions (It is noted that the terminology "lightly" and "excessively" is relative). Therefore, there is sufficient factual evidence for one to conclude that the function, capability of property of the direct connection, i.e. detachment upon some amount of expansion, would also be inherent in the "light" attachment of any of the

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immediately adjacent panels of the pleats so as to not excessively inhibit the expansion desired by '688, see MPEP 2112.01. Finally, i.e. the Examiner's third position, again at the very least '688 teaches the desire to "lightly" attach immediately adjacent panels of pleats 92, i.e. configure the strength and distribution, so as to not "excessively" inhibit the desired expansions. Houghton '711 also teaches attaching immediately adjacent panels of pleats so as to not "excessively" inhibit the desired expansion, i.e. by detachably, i.e. "lightly", attaching so that directly attached portions detach when the absorbent material expands, see '711 at, e.g., Figures 2 and 3, col. 6, lines 27-29, col. 16, lines 32-54 and col. 17, lines 41-33. Therefore, to employ a "light" attachment which is detachable as taught by '711 on the '688 device, if not already, would be obvious to one of ordinary skill in the art in view of the recognition that such attachment would "lightly" attach the panels of the pleat without "excessively" inhibiting the desired expansion and the desirability of such by '688.

Claim 3: See portions of '688 alone, i.e. securements 40, 44 and "light" attachments of immediately adjacent panels of 92 so as to not inhibit expansions, or Houghton '711 cited supra, i.e. nonreleaseable and releaseable bonds. The "light" or releasable bond, i.e. the bond of the cover, detaches during use but the securement or nonreleaseable bond, i.e. bonds at the first location, do not, i.e. the bond at the first location, i.e. the primary bond, is stronger than the bond of the cover, i.e. the secondary bond, during use.

Claim 4: The topsheet is 28.

Claims 6-11: See element 32, the locations of 40, 44 in the Figures, the paragraph bridging pages 22-23 and 14-15 of '688 alone and/or the portions of '711 cited supra, e.g. in '688 the pleat panels are parallel with the locations of 40, 41, i.e. the first locations, and at least in part

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laterally and longitudinally spaced from the locations of 40 and/or 44, the pleats are laterally spaced from one another, attachment/location/bonding region(s) on each of the pleats can be a spot or line, i.e. have length and width, and thereby some portion longitudinally spaced apart from some portion of, e.g. the terminal end, a location of 40 and/or 44, a spot bond has some diameter which is longitudinally parallel to 40, 44, i.e. a first location, and in '711 the attachments/second locations 66, 72 are located at least at the transverse centerline.

Claim 12: See the first full paragraph of page 18, e.g. absorbent sheet 74 defines an envelope, i.e. includes first, second and third folds as claimed.

Claim 14: See again the Figures, page 9, lines 28-31 and the paragraph bridging pages 14-15.

Claim 20: The portions are the immediately adjacent panels of pleats 92 as discussed supra.

Claim 49: See page 6, lines 9-11, the paragraph bridging pages 14-15 and page 26, lines 15-18. It is claimed that the absorbent element is fixedly, detachably directly connected to the panels at the first locations. It is the Examiner's first position that such is taught by such portions of '688. Note that at the very least the '688 reference teaches pins, staples or stitching as attachments 40, 44, e.g. the paragraph bridging pages 14-15, e.g. sewing. Therefore, and alternatively, i.e. the Examiner's second position, at the very least '688 teaches a direct connection between the composite and panels which connection is fixed but detachable, e.g. stitching/sewing as also disclosed by Applicants or pins and staples, and the contemplation of replacement of an absorbent portion and reuse of a cover portion. Therefore, there is sufficient factual evidence for one to conclude that the function, capability of property of the direct

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connection, i.e. fixed, detachable, direct connection, would also be inherent in the same structure as that disclosed by '688, see MPEP 2112.01. Finally, i.e. the Examiner's third position, to make the fixed direct connection, e.g. by pins, staples, or stitching between the absorbent composite and the cover, i.e. panels 52, 53, of '688 a fixed, detachable, direct connection, if not already, would be obvious to one of ordinary skill in the art in view of the recognition such a feature would permit replacement of the absorbent portion and reuse of the cover portion and desire of such by '688.

Claim 50: See element 50 in the Figures and note that the claim does not require any specific dimension of the outer cover relative the cover, i.e. not required to entirely cover such.

Claims 55-56: See '688 at the Figures, page 8, last paragraph and page 33, last paragraph.

Claims 32-36, 52, and 57-58: See discussion of claims supra. Additionally the primary bond region is the extent of element(s) 40, 44 and the secondary bond region is the extent of the secondary bond, i.e. the extent of attachment of the cover portions taught by '688 alone or in combination with '711.

### ***Response to Arguments***

7. Applicant's remarks have been considered but are deemed moot in that the issue argued has not been repeated




*Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. PCT '152 of good date to another inventive entity teaches an outer cover covering the entire cover.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karin M. Reichle whose telephone number is (571) 272-4936. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Karin M. Reichle  
Primary Examiner  
Art Unit 3761

KMR  
May 15, 2006